

WEST NEWBURY PLANNING BOARD
MINUTES OF MEETING
January 20, 2015

Pursuant to a meeting notice posted by the Town Clerk and delivered to all Board members, a meeting of the West Newbury Planning Board was held on January 20, 2015, in the Planning Board Office. Board members Ann Bardeen, Richard Bridges, Raymond Cook, Brian Murphey, Chairman, and John Todd Sarkis attended. Associate Member Dennis Lucey and Administrator Jean Nelson were also present.

The meeting was called to order at 7:05 PM.

The Minutes of November 3, 2014 reviewed and edited.

Motion made by Murphey, seconded by Bridges, to approve the Minutes as edited. The vote in favor was 5-0.

The Minutes of December 2, 2014 reviewed and edited.

Motion made by Murphey, seconded by Bridges, to approve the Minutes as edited. The vote in favor was 5-0.

Continued Public Hearing to consider Applications for Definitive Subdivision Plan (M.G.L. Chapter 44 §81T-81GG) and Special Permits for ..a Common Driveway Special Permit to serve three lots, Section 7.D., and ..Reduced Frontage Lot Special Permit for three lots, Section 6.A.1., for "Estate Homes at Rivers Edge", land located off Sullivans Court

Murphey opened the continued Public Hearing at 7:30 PM. Thomas Neve, Applicant, introduced himself for the record. He said that he had submitted revised plans dated January 7, 2015. Meridian Associates had reviewed the plans and had written a report. According to Neve, the report addressed mostly drafting items on the drawings.

Neve reviewed each sheet in the plan. The title sheet has been changed to show locations of driveways and easements. On the second drawing the high tide line of the Merrimack River has been changed. The riverfront area moved 20-30 feet upstream. Neve distributed a table with each lot dimension, CBA, special permit status, etc. He reviewed requirements for conventional lots.

He indicated that relocation of the driveway at Lot 6 so that lights would not shine in the opposite abutter's house. Access for Lot 1 is over Lot 2, if the Board decides to approve the unbuilt stub. Murphey asked about the catwalk. Neve indicated it goes to the River Meadow subdivision. He said he would build it to the upland side so it is

functional. The catwalk has been removed from the plan, but he can put it back on. The catwalk would span the wetlands, which is approx. 60-70 feet across. It is vegetated. Neve said he would build it by hand, 4' wide, like a conservation walkway.

Lucey asked about the trail easement from the Cottages. Nelson asked where the easement is from the Sullivans to Cottages. Neve said it will be on the plan, but is not shown here. She said the plan indicates a water detail, but she could not find a detail. Neve indicated where it would be.

Sarkis asked about the location of the hydrant. Neve said he checked with the Water Department but not the Fire Department for location. He explained the rationale. Sarkis said the hose would be running across the cul de sac, and questioned the location from a Fire Department point of view. Neve said it is at the end of the line so it can be flushed. Nelson said that Mike Gootee has been to the morning meeting, and had sent a message to Neve with comments.

Neve continued that Sheet C6 is an overview of everything. They are expecting that the Board of Health will be denying the submitted septic plans tonight, and they will be refiling the septic designs.

Bridges asked about the wall on sheet C6 on Lot 1. Neve said they are holding the grade at the 25' buffer line. If the house becomes shorter he won't need it, but that is the height of the design now. The wall is 6' high.

Murphey pointed out the fill for the common driveway. Neve said it is approximately an 8' fill to the existing grade. All grades will be tied in and feathered back to the lots. He said that there is a high water table there, so there would either be little Indian mounds and pumping to the system, or by raising the overall grade. The cut and fill earth will be from the circle and the knoll with the barn, which is coming down. Excavating foundations will also provide fill. Neve said that two lots (1 and 2) will not have walk out basements, so it will be more sensitive to the neighbors. It will require more fill and grading. Murphey said the amount of fill is a significant change in the characteristic of the site. Neve said it drops off quickly then flattens out, so they are bringing the grade up to that grade. Neve said the post-development drainage study is based on these grades.

Murphey asked Sarkis his opinion of the significant amount of fill. Sarkis said he appreciates Neve's willingness to do away with walkout basements. To weigh in on it, it would take him a while to review the grading for walkout vs. no walkouts. Murphey was concerned about raising everything. Sarkis said the slope at the north boundary on Lot 2 and on Lot 1 westerly is tight. Cook said he thinks in the end Lots 1, 2, and 4 will

look better. The driveway on Lot 2 was discussed. It feels tight by the abutters on River Meadow Place. Neve said now it is a bit of a hole, but the grade will be changed and it will roll nicely. Discussion followed about moving the driveway so it curves.

Sarkis suggested flipping the house, but Neve said it is a tough turn. Options were discussed. Neve said he had offered to plant an evergreen and deciduous buffer along the lot lines. He was asked to send any sketches relative to house sites.

ON Lot 5, Murphey asked if the grade change is natural. Neve said they are extending the hill out a bit for the septic system location with a 6-8 foot fill. He said the soil is perched, which indicates a high water table for the septic designs.

Murphey brought up Lot 3 with the detention characteristics. Neve said he wants to move the house out of the riverfront area. They are allowed to put stormwater management measures in as long as there is no other reasonable alternative, and that has been submitted to the Con Comm. Neve submitted a page which addressed this. 58 acres of land were studied for the drainage study. There are five subcats that flow to the river, and he summarized them as written on the summary. So the 3.7 acres available for the detention pond must be in reasonably good soils, relatively low, and 2 feet above groundwater. There is no other reasonable alternative. The driveways are conducting water to the stormwater management area. A planting plan has been created by Greg Hochmuth for this area.

Neve said the meadow will be mowed once a year in the early Fall. There will be no clearing necessary to construct the pond. Infiltration is only the bottom, so the pond has been moved as much as it could be.

Murphey noted that the house on Lot 6 has moved significantly. Neve said it had been, in order to meet the alternatives analysis. A small portion of grading in the riverfront will be needed. The house is at the setback line and closer to the abutter. Neve said there are opposing regulations working here. The location of the house was discussed. Neve said he does not feel the lot will lose value.

Murphey brought up trails. He asked what is available for a trail without disturbing the owners or irritating the abutters. Neve said he is amenable to trails. The single driveway is providing access to maintain the pond. He intends to form an HO to take care of the pond. He said he feels a trail along the driveway could work. Lucey agreed it is a nice fit.

Cook said he felt the other access at the common driveway would be suitable. Neve said he could open the throat for a couple of parking spaces to park in a gravel area. Sarkis said walking down a private driveway is intimidating. Bardeen and Lucey felt the

single driveway was better as a trail. Neve suggested a stone dust path which would disappear if not used. Murphey asked if walking around the pond creates a headache with the Con Comm. Neve said it will not. Sarkis said he felt that creating a 6 foot path to a resource area is allowed. Bridges suggested demarking the Lot 6 driveway where it would become private. Neve highlighted a potential trail along each driveway.

Patricia Reeser, Open Space Committee, said the single drive is less intimidating. She suggested a loop trail using both driveways. Cook reviewed trails from the Cottages property creating more of a network.

Murphey said he was in favor of this, and the Board would support Neve's efforts with the Conservation Commission.

Bridges returned to Lot 1. He said it looks tortured coming up that close with a six foot wall. Neve said the house will be moved forward 10-15 feet which will eliminate the wall.

Murphey asked the status of the project with the Con Comm. Neve said the final revisions to the drawings have been made. They anticipate an appeal to that decision. If appealed to the state, you lose local control, which is unfortunate. He hopes the ANRAD will be closed this evening. He said the subdivision NOI will be kept open, and the riverfront lots will linger if there are any issues. He said if there is a significant difference, they will have to file an 81W modification, and it is at their risk.

Cindy Sherburne asked about cutting into her driveway. Neve apologized for not bringing that up. He said that he had met in the field with Jean and Cindy. He had offered to overlay Sherburne's driveway when paving Sullivans Court to tie it in to the new street overlay, and he would accept that as a condition.

Neve said that he will be installing drainage, and bringing it across the street so it does not run across her driveway. The culvert will be shallow, and the work is in the drainage calculations.

Sherburne objected to trees being planted 1. Under the wires, and 2. In her front yard, on Sullivans Court. Murphey and Cook agreed that they are not needed. Neve said he did not ask for a waiver of the trees, which are shown on the drawings. He said the plan could be conditioned with trees to be planted at discretion of the Planning Board in a location determined by the Board.

Howard Hill asked if a drainage pipe or gravel swale could be run to the pond so that whatever comes down the huge berm does not flow into his yard. Neve said there is sufficient grade to put in a pipe to intercept the water naturally. Hill said there is runoff

on his property now. Neve explained that with the driveway they are intercepting half of the water, which will not run to Hill's property.

Hill said Lots 3 and 6 contain the detention pond. He asked how the Board will deal with maintenance outside and inside of the subdivision. Murphey said that he, Jean and the engineer have discussed the lot as an ANR lot. In his view, this is an open question. Hill said he hopes Neve will put in a buffer of trees, and he is concerned with the major topography change.

Tom Horgan said he is concerned with the top of his septic system. Grades were reviewed. Horgan said the top of his septic system is at 32'. Neve said if built today, it would be at 40'. The standards today are much tougher. Horgan handed out pictures of his lot taken last March which showed water between Turunen and his septic systems. Neve explained the drainage. Neve said the rate of runoff has been reduced drastically from the site to Horgan's location. Murphey asked Nelson to check this design item with the consulting engineer.

Horgan asked if there is recourse if their driveways or septic systems become flooded out. Neve said that will not happen. He suggested that the abutters have their consultant review the data, since he is not convincing them. Horgan said in the 2006 storm, the flooding was much worse.

Sarkis said that the top of the septic mound is 32, and Neve's highest grade is 36. It was summarized that it creates a trench connecting two corners running into the infiltration trench. Sarkis said now the water would be diverted—is that the right thing to do to the environment? Neve said the Board can make the decision and condition the infiltration trench. Cook agreed that the abutters should ask their own consultant.

Jay Soucey asked what the Town will ask for infrastructure improvements—water, power, etc? Murphey said improvements to Sullivans Court will be discussed at the next meeting.

Motion made to continue the Public Hearing to February 4, 2015, at 7:00 PM. The vote in favor was unanimous.

The Cottages at River Hill, requested Modification to Unit A

Chip Hall appeared for Cottage Advisors. He had sent proposed modifications to Unit A, a cover letter, and a letter from Chris Lorrain of LandTech supporting the requested modification.

Hall distributed floor plans of the permit set, and the proposed modification. The unit is currently 1488 square feet of GFFA. On the unit, there was a space where the deck would have been. The deck had gone between the garage and the dining room. They were looking to enclose the 10 foot span, for approximately 100 square feet. The Code Officer had said that they could physically build an office there, and he had suggested that Hall request a minor modification to extend the foundation wall across the back.

That would provide a full foundation under the 100 square foot area. Bardeen noted that would add more room to the basement also. Cook noted that the roofline and the wall to the mudroom would be changed. The roof on the back would be extended. Cook asked if anything had been received from Glenn Clohecy. The response was no, due to the holiday Nelson had not seen him. Hall said the GFFA would increase from 1488 to 1588 square feet. Hall said this is a good selling unit, but people want the option with the office. He has two contracts for the A Unit with an office.

Cook said that his reaction is this is a minor modification. There is no change to the streetscape. Bardeen noted that we have recently learned that we perhaps erred on the minor modification side before. Cook said he agreed using that analysis, this would not be minor. He said the only change would be seen from the back of the building. Responses were that abutters see the backs of the buildings. Hall said that Clohecy said they could build it as an office if they put it up on posts. He would prefer to see the plans updated to be able to support the revised foundation.

Bardeen said that a deck would only have an incidental enclosure such as a screened porch. The point was not that it would become a structure without a foundation. So she felt that the point was not to enclose it. Nelson said Clohecy did not consider this conversion of a deck, because the deck has not been built yet. Sarkis summarized that a resident could make a change later, as written in the Certificate of Vote.

Bridges went back to the discussion of major versus minor, and said he felt this is in the major category. Hall said the decision said they can make modifications to the plan. Nelson pointed to III. D. on page 10. which refers to future owners and anticipating expansion.

Murphey said the spirit of this was an option to change down the road for future owners. Cook pointed to Section III.B.1., "Units shall be built as shown of the Architectural Plans." Hall referred to minimal expansion of the unit, but did not continue reading the next sentence. He said that the decks were counted as impervious area in the original design. He repeated that Clohecy had said if you build it like a deck, then you can enclose it but if you want to change the foundation, then you need to go back to the Planning Board for a modification.

Murphey said he does not see this as a minor modification and is a little troubled by continued effort to expand these units. Bridges said he remembered Melissa bringing up that the ability to expand was in the future. He said he would like to hear what Glenn has to say.

Lucey asked what the units could grow into, and where this ends. He said that you will end up with large houses that are feet from each other. Hall said the average size new construction in West Newbury is 2650 square feet and Lucey said this was not supposed to be like that.

Bridges said this is impacting the relative affordability. The numbers are increasing also. Upon questioning from Hall, he said that \$300,000 range is in his mind "affordable".

Bardeen said she shares Murphey's concern about serial expansion. Hall said the footprints as on the plans are where they are staying. This is an infill surrounded by three walls, and the buyers would like to purchase the unit with the expansion.

Nelson said that this is two modification requests. Cottage Advisors had requested the modification to Unit A. In the LandTech letter, they had asked that this be allowed on the south and west side of the project. She referred to Section III.D.5. of the Certificate which listed units for which decks could not be enclosed. She said this had been discussed at the public hearings at great length, and she has spent several hours reviewing the drainage and units with April Ferraro at Meridian. She said she felt that if the Board starts hacking away at this particular condition, it would become eroded and eroded. She noted also that some As are restricted by the density bonus. Hall said there are two separate things, and Nelson agreed but observed that he had only requested one.

Hall said they wanted to be able to offer the office on the north side. He said there is different pricing in different areas. Cook agreed that altering that condition is definitely major. He also said under III.B. you have to build what is on your plans. He then referred to III.D.1. He said as he reads it, you are not entitled to modify this—that is for future owners, once an Occupancy Permit has been issued. He summarized that case law supports minor modification as being correcting typos and minor errors only.

Cook said he assumed that they were not asking for a modification to III.D.5., and he was incorrect. Hall said that at a minimum they were looking at enclosing the 100 square feet. Nelson warned again that the units which could not enclose decks should not be chipped away by stating that drainage calcs had been designed on a larger footprint, so small additions were acceptable. She said that eventually there would be

no control over expansions, and the site is too tight for this. Bardeen agreed this is where the additive comes in and nibbles away on the conditions. They can't be looked at separately. Cook said he could not accept a modification to III.D.5.

Murphey said that as he hears it, there is not a desire to approve a minor modification. Hall asked if the Town attorney would going to provide a response to his attorney's letter regarding minor vs. major modifications, and Murphey said no.

Hall said in his project in Maine they had over 100 changes. He said it is not reasonable. Murphey said it is not a subdivision where you can do what you please. It is a Special Permit in Massachusetts. Hall left the room.

Housing Production Plan

Murphey asked the deadline for submittal to the CPC, which is February 12th. The Board will decide at the next meeting whether to submit the Application or not. Nelson said it is more than updating the census numbers. Measures for creating affordable housing must also be proposed.

Budget

Murphey will contact Mike Bertino to let him know that the Budget will be a bit late. He distributed a Job Description which Bardeen has updated. He said that at the Personnel Committee meeting, Glenn Kemper had expressed interest in a new Master Plan. The position will be increased to 25 hours per week.

Motion to adjourn, 10:30 PM.

Submitted by,

Jean Nelson
Planning Board Administrator

These Minutes were approved by the Planning Board on April 21, 2015